

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Office of Conservation and Coastal Lands  
Honolulu, Hawaii**

REF:OCCL:DH

CDUA: HA-3488

Acceptance Date: October 3, 2008  
180 Exp. Date: April 1, 2009

November 14, 2008

**Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, Hawaii**

**REGARDING:** Puako Emergency Access Road

**CONSULTANT:** Ron Terry, Geometrician Associates, P.O. Box 396, Hilo, Hawaii,  
96721

**LANDOWNER:** State of Hawaii, Department of Land and Natural Resources and  
Lessee Mauna Lani Resort

**LOCATION:** Puako, South Kohala, Island of Hawaii

**TMK:** (3) 6-9-001:017 & 6-9-006:051

**AREA OF USE:** 4 Acres

**SUBZONES:** General and Protective

**DESCRIPTION OF AREA/CURRENT USE:**

The proposed roadway would connect the end of Puako Beach Road with Holoholo Kai Beach Park Access Road using portions of State-owned parcels TMK's: (3) 6-9-01:017 (which is currently leased to the Mauna Lani Resort), and 6-9-006:051 (which is unencumbered State land). The proposed roadway area is currently on unimproved vacant land and has existing vegetation. The adjacent community is Puako, located in the South Kohala District, Island of Hawaii.

The two subject parcels are located in the State Land Use (SLU) Conservation District, General and Protective subzones. **(Exhibits 1, 2 & 3).**

## PROPOSED USE:

According to the applicant, the Puako Community Association (PCA), with the cooperation of the Mauna Lani Resort, proposes to utilize a 625 foot long 30 foot wide portion of State of Hawaii lands for a gated emergency road. The proposed road will connect Puako Beach Road with Holoholo Kai Beach Park Access Road using portions of TMK's: (3) 6-9-001:017 and (3) 6-9-006:051. The Mauna Lani Resort is cooperating with the community as they lease TMK: (3) 6-9-001:017.

The Puako community has one evacuation route out of the area in the event of emergencies (wildfires, high surf, tsunami, traffic accidents). The most recent wildfire of October 28, 2007 burned 1,500 acres, approached within a quarter mile of 200 homes, and prompted the evacuation of 400 people. On October 15, 2006, the 6.7 earthquake's epicenter was approximately 15 miles from Puako. It caused extensive damage and highlighted again the need for an alternative access and egress out of the community.

The impact of failing to build the road would be the continued risk to human life and property in the event of a natural disaster. Construction of this emergency road has long been the goal of the PCA, which is funding the project.

The proposed action will cut trees located in the proposed roadway. The road will be graded and surfaced with gravel and be gated at both ends. The Hawaii County of Hawaii Civil Defense Agency, Kohala Coast Fire Station, Police Department, Hawaii County Department of Public Works, and State Division of Forestry and Wildlife (DOFAW) would have access to the gate. However, Civil Defense would have primary responsibility for opening the gate. The roadway is located within the Special Management Area.

The roadway is located on 'a'a and pahoehoe lava flows from Mauna Loa volcano. Soil maps indicate a lack of developed soils. The entire Island of Hawaii is rated Zone 4, which are areas at risk from major earthquake damage. An anchialine pond is located 15 feet from the project area, which will be buffered with construction fencing as a BMP measure. The project corridor will also pass near the Puako Petroglyph Preserve. The project area is located within the tsunami inundation zone. Flood Insurance Rate maps (FIRM) indicate the project area is located outside the 100-year or 500-year floodplain.

The vegetation along South Kohala was most likely coastal shrubland dominated by 'ilima (*Sida fallax*), which have been destroyed or heavily degraded by cattle grazing and/or urban development. The area now consists of a fairly uniform forest of kiawe (*Prosopis pallida*), with the remnant 'ilima indicative of the preexisting ecosystem. The species detected are mostly introduced (and invasive) species but two common indigenous species are also present. Lastly, the applicant notes there are no Federal or State listed rare, endangered or threatened species of flora and/or fauna found on the subject parcel.

The subject parcels are located in the State Land Use (SLU) Conservation District, General and Protective subzones.

#### **SUMMARY OF COMMENTS:**

The Office of Conservation and Coastal Lands (OCCL) consulted the following agencies: Department of Land and Natural Resources (DLNR) – Division of Conservation and Resource Enforcement (DOCARE), Historic Preservation Division (HPD), Engineering Division (ED), Division of Forestry and Wildlife (DOFAW), Division of Aquatic Resources (DAR), State Parks Division, Hawaii District Land Office (HDLO), Department of Health (DOH), Office of Environmental Quality and Control (OEQC), Office of Hawaiian Affairs (OHA), County of Hawaii, Department of Planning, Hawaii County Office of the Mayor, Hawaii County Fire Department, Hawaii County Police Department, Hawaii County Council, Thelma Parker Public Library, Department of Defense – Civil Defense, Mauna Lani Hotel, and the Pauko Community Association. The following comments were received:

##### Land Division

The existence of the emergency road will need to be legally documented, which can be accomplished either by: 1) grant of easement, 2) lease of the roadway, 3) sublease from the Mauna Lani, and 4) set-aside of the roadway. A subdivision is required when a lease or set-aside of roadway is required.

*Applicant Response: The PCA plans to study these options and consult with the Land Division prior to filing a request for easement, lease, sublease, or set aside. The PCA is currently in the process for applying for 501(c)(3) status, which it expects to obtain shortly. The PCA understands that it would be responsible for subdividing the leased portions from their parent properties, if a lease or set-aside is undertaken.*

##### Division of Conservation and Resource Enforcement

No Comment

##### Engineering Division

The project site is located in the Flood Insurance Rate Map is located in Zone X.

*Applicant Response: Thank you for confirming the project is located within Flood Zone X.*

##### Division of Forestry and Wildlife

No Comment.

##### State Parks Division

No Comment.

##### Hawaii County Department of Planning

The proposed project will require a Special Management Area as construction is considered as “development.” In addition, due to the projects proximity to an anchialine pond the applicant will be required to get written recommendation from the Army Corps of Engineers for establishing an acceptable distance of construction activities related to, and including, the road from the pond.

*Applicant Response: Thank you for clarifying subject parcel TMK: (3) 6-9-006:051 is located within the Urban District, zoned Open by the county, and designated Open in the Hawaii County General Plan. The US Army Corps of Engineers made a determination that no jurisdictional waters were present in the area and associated construction; no Department of the Army permit is required and that they do not impose setback requirements for anchialine ponds. The PCA has designed the road to avoid impacts to this or other anchialine ponds and has pledged to ensure that construction will be monitored.*

*We have been coordinating with your office regarding the processing and information requirements for the SMA. Staff notes that the proposed project received SMA Minor permit No. 08-000088.*

Hawaii County Police Department

The proposed project is needed given the large brush fires experienced by this community in the past. This roadway will allow for smoother evacuation of residents near the end of Puako.

Hawaii County Fire Department

The proposed emergency road will provide alternative access and egress for the community in times of emergency. Although the draft plan identifies the roles and responsibilities of road maintenance it would be desirable to include conditions on or responsibilities for vegetation or fuel management as it relates to fire hazards.

*Applicant Response: the PCA will be in charge of maintaining the vegetation along the route as part of its road maintenance responsibilities.*

Department of Defense – Civil Defense

The proposed project will have a valuable impact on the PCA; it will provide an alternative emergency route. The Civil Defense is in full support of the project, and which will benefit many.

*Applicant Response: On behalf of the PCA. I would like to thank you for the assistance that you and your agency have consistently provided to enable the completion of this worthy and vitally needed safety improvement.*

Robert Ward

The Draft Environmental Assessment (DEA) for the emergency road should discuss emergency egress, ingress or access for emergency vehicles and equipment to protect the health and property of the Puako community, and possibly guests, residents, and

employees of the Mauna Lani Resort. Land use may require surface improvements, access for bicyclists and pedestrians, and agreement between stakeholders and should be addressed in as part of the environmental process. These users would provide: 1) regular inspections of the road, 2) provide links to Mauna Lani and Mauna Kea with the Puako Community (that can accommodate pedestrians, bicyclists, and disabled pedestrians), 3) provide shoreline access along the Ala Kahakai Trail, and 4) provide direct access to the 9 mile long component of the Bike Plan Hawaii.

*Applicant Response: Your interpretation of Chapter 343 is not shared – the use of State land triggers the requirement of an EA and the PCA is not seeking a road that serves bicyclists and pedestrians. Their need is for an emergency exit particularly during fires. The PCA has assumed all considerable costs associated with the designing, planning, permitting, building, and inspecting of the emergency road, and is not obligated to incorporate other land uses. The County and/or State or any other applicant is free to submit and obtain the appropriate permits and approvals.*

Staff notes the following were late comment letters:

Department of Health

The Clean Water Branch notes any project and its impacts to state waters must meet the following CWB sections - Antidegradation policy (HAR, Section 11-54-1.1), Designated uses (HAR, Section 11-54-3), water quality criteria (HAR, Section 11-54-4 through 11-54-8). You should check whether a National Pollutant Discharge Elimination System (NPDES) permit (and Notice of Intent (NOI) and/or an individual NPDES permit) is required for the proposed project. Any project and its potential impacts to State waters comply with the State's Water Quality Standards.

*Applicant Response: The US Army Corps of Engineers made a determination that no jurisdictional waters were present in the area and associated construction; no Department of the Army permit is required and that they do not impose setback requirements for anchialine ponds.*

Historic Preservation Division

HPD notes that: 1) previous grubbing/grading has altered the land; 2) that an accepted archeological inventory study (AIS) found no historic properties; 3) the AIS was approved Doc. No. 0804MD17. Lastly, in the event that historic resources including human skeletal remains, cultural materials, lava tubes, lava blisters/bubbles are identified during the construction activities, all work needs to cease, the find protected from additional disturbance, and HPD Hawaii Branch be contacted.

Office of Hawaiian Affairs

OHA comments: 1) can the road be moved to avoid impacts to archeological site 26258 in order to preserve its remains; 2) what effects the graded road will have on the nearby water body as sheet flow and runoff implications can occur due to improper drainage; 3) a drainage report should be done indicating runoff will be routed away from the pond; 4) if the water table is reached during subsurface excavation a State DOH National Pollutant

Discharge Permit under the Clean Water Act, Section 402 is required; this would also apply if any dewatering is required.

*Applicant Response for both letters: The archeological work determined that Site 26258 has already been disturbed by road construction, the petroglyph trail construction, and miscellaneous bulldozing. The archeologist and HPD determined the site was not significant for preservation. A majority of the site would remain undisturbed. The route was chosen because it minimalized visual impacts, including disturbance to the petroglyph field. It is not possible to provide an emergency access road from the end of Puako Beach Drive to Holoholo Kai Beach Park access road without crossing over part of the linear site. The anchialine pond will not be affected as it is located at an elevation far below the level of the adjacent terrain, particularly in the vicinity of the road, thus road construction should not intersect the water table. Sheet flow in the area will be prevented via the coarse nature of the gravel, and width and volume of the graded prism.*

**Analysis:**

Following review and acceptance for processing, the applicant was notified, by letter dated May 23, 2008 that:

1. The proposed use is an identified use within the Protective subzone of the Conservation District according the Hawaii Administrative Rules (HAR), 13-5-22, P-6, D-2, PUBLIC PURPOSE USES, "transportation systems, transmission facilities for public utilities, water systems, energy regeneration facilities utilizing the renewable resources of the area (e.g. hydroelectric or wind farms) and communications systems and other such land uses which are undertaken by non-governmental entities which benefit the public and are consistent with the purpose of the conservation district;" please be advised however that this finding does not constitute approval of the proposal;
2. A public hearing pursuant to HAR 13-5-40 will be required;
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, HAR, a finding of no significant impact (FONSI) to the environment is anticipated for the proposed project. The draft environmental assessment for the project has been submitted to the Office of Environmental Quality Control (OEQC), and will be published in the June 8, 2008 edition of OEQC's Environmental Notice.

The OCCL notes the proposed project's DEA was published in the June 8, 2008 Environmental Notice. The Final Environmental Assessment (FEA) was submitted with a Finding of No Significant Impact (FONSI) for OEQC's August 8, 2008 Environmental Notice.

**PUBLIC HEARING:**

A Public Hearing was held on Thursday October 30, 2008 at the Hokulua United Church of Christ, 69-1600 Puako Beach Drive, Island of Hawaii. Approximately 19 people showed up; 16 people supported the proposed project.

**SECTION 13-5-30 CRITERIA:**

The following discussion evaluates the merits of the proposed land use by applying the criteria established in Section 13-5-30, Hawaii Administrative Rules (HAR).

- 1) *The proposed use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare.

Staff notes the proposed road will have an impact on an archeological feature, existing vegetation, and open space. However, the impacts will be mitigated to the greatest extent possible. The road is necessary to provide an alternative evacuation site for the Puako residents in the event of a fire, tsunami, hurricane, etc. The action is consistent with the purpose of the Conservation District.

- 2) *The proposed land use is consistent with the objectives of the Subzones of the land on which the use will occur.*

The objective of the General subzone is to designate open space where specific conservation uses may not be defined, but where urban use would be premature. The objective of the Protective subzone is to protect valuable resources in designated areas such as restricted water-sheds, marine, plant, and wildlife sanctuaries, significant historic, archeological, geological, and volcanological features and sites, and other designated unique areas.

Staff is of the opinion that the proposed land use is consistent with the General subzones identified land use in maintaining open space. However, it may not be consistent with the Protective subzones identified land use. Nevertheless, there is a strong public purpose underlying the project, and the applicant proposes adequate mitigation measures.

- 3) *The proposed land use complies with the provisions and guidelines contained in Chapter 205A, HRS entitled "Coastal Zone Management", where applicable.*

Staff notes that the proposed project is consistent with Chapter 205A.

- 4) *The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.*

Staff is of the opinion that impacts have been adequately mitigated even though the proposed project will take place partially in the Protective subzone.

- 5) *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

Staff is of the opinion the proposed road will fit into the locality and surrounding area. Although the proposed action will cut trees, the road itself will be graded and surfaced with gravel and gated at both ends. Staff notes with the appropriate mitigation measures there will be no significant or deleterious effects to the locality, surrounding area and parcels.

- 6) *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

Staff notes the applicant has taken the appropriate steps to mitigate any potential impacts and to maximize and enhance the natural beauty and open space characteristics of the subject parcel.

- 7) *Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

The proposed project does not involve subdivision of Conservation District land.

- 8) *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

The proposed action will not be materially detrimental to the public health, safety and welfare. Staff notes it will enhance the public's safety in the event of a tsunami, hurricane, earthquake, and/or fire by providing a safe access route.

## **DISCUSSION:**

The proposed use is an identified land use within the Conservation District, according Hawaii Administrative Rules (HAR), 13-5-22, P-6, D-2, PUBLIC PURPOSE USES, "transportation systems, transmission facilities for public utilities, water systems, energy regeneration facilities utilizing the renewable resources of the area (e.g. hydroelectric or wind farms) and communications systems and other such land uses which are undertaken by non-governmental entities which benefit the public and are consistent with the purpose of the conservation district."



The PCA proposes to utilize a 625-foot long by 30-foot wide portion of State of Hawaii land in order to build a gated emergency roadway. This roadway would connect the end of Puako Beach Road with Holoholo Kai Beach Park Access Road.

The applicant notes recent discussion between the PCA and the County of Hawaii Mayors Office are in favorable discussions regarding the County obtaining the land disposition for both subject parcels (keeping the easement and control over the road) and maintain the road, then granting the PCA a Right of Entry to construct the proposed road. The PCA would complete the permitting process and handle the construction. The road would be used for emergency use only (**Exhibit 4**).

Staff is of the opinion that the proposed project does not conflict with the objectives of the subzone. Staff notes the applicant will preserve the natural beauty and open space characteristics of the area. Staff is of the opinion that the proposed project will not result in substantial adverse impacts to natural resources.

Staff therefore recommends;

**RECOMMENDATION:**

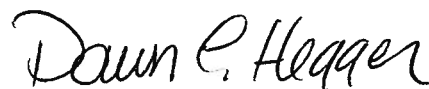
Based on the preceding analysis, staff recommends that the Board of Land and Natural Resources APPROVE this application to construct Pauko Emergency Access Road , subject to the following terms and conditions:

- 1) The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The applicant shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to Hawaii Administrative Rules (HAR) Section 11-60.1-33, "Fugitive Dust" and to Chapter 11-46, "Community Noise Control;"
- 4) Any work done on the land shall be initiated within one year of the approval of such use, and unless otherwise authorized be completed within three years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
- 5) Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of

the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;

- 6) In issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 7) The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
- 8) Where any polluted run-off, interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the polluted run-off, interference, nuisance, harm, or hazard;
- 9) The applicant acknowledges that the approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
- 10) During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
- 11) That the applicant will work with the Land Division Hilo Office for a Land Disposition for the use of subject parcel;
- 12) Other terms and conditions as may be prescribed by the Chairperson; and
- 13) Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

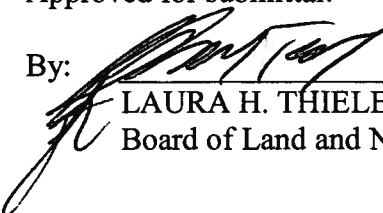
Respectfully submitted,



Dawn T. Hegger  
Senior Staff Planner

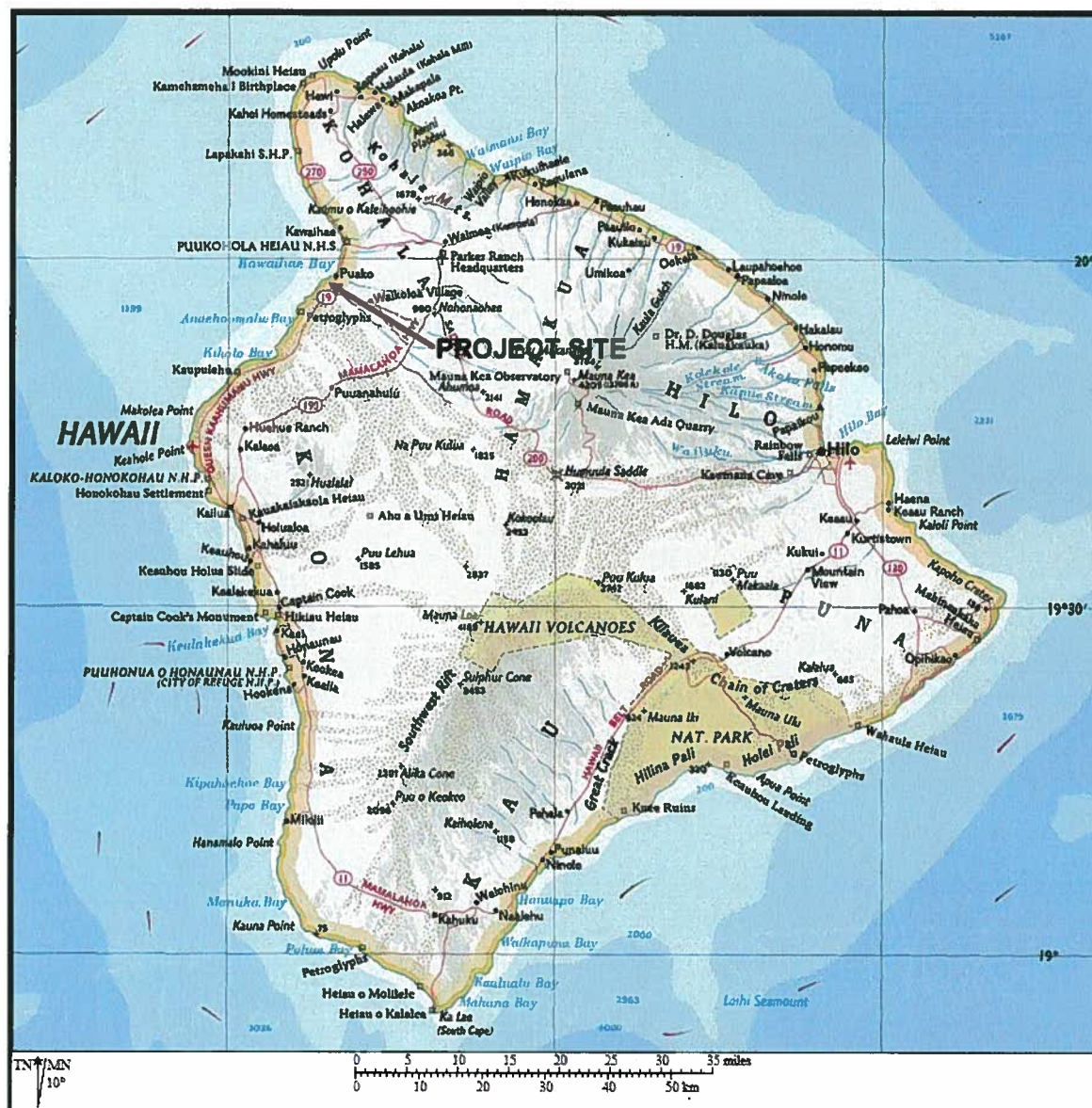
Approved for submittal:

By:



LAURA H. THIELEN, Chairperson  
Board of Land and Natural Resources

**EXHIBIT 1**

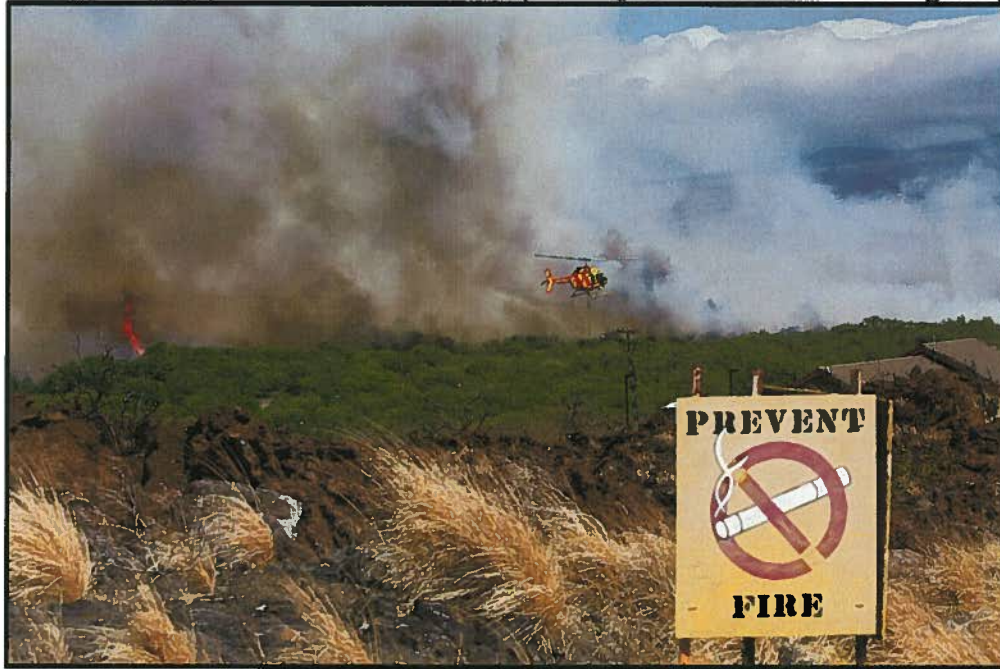




**Project Site Aerial Imagery Map**

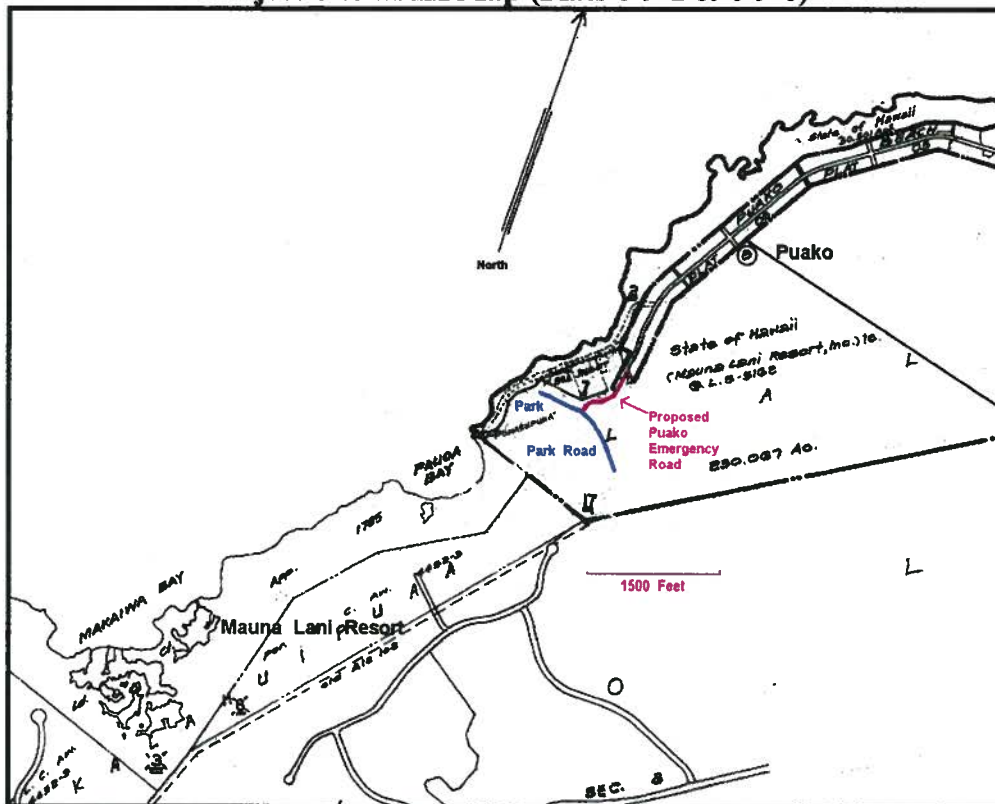


**The October 28, 2007 Puakō Wildfire (from Queen Ka'ahumanu Highway)**



Puakō Fire Station is visible on the right-hand side. Photo courtesy Bill Adams ([www.billadams.net](http://www.billadams.net)).

**Project Site TMK Map (Plats 6-9-1 & 6-9-6)**





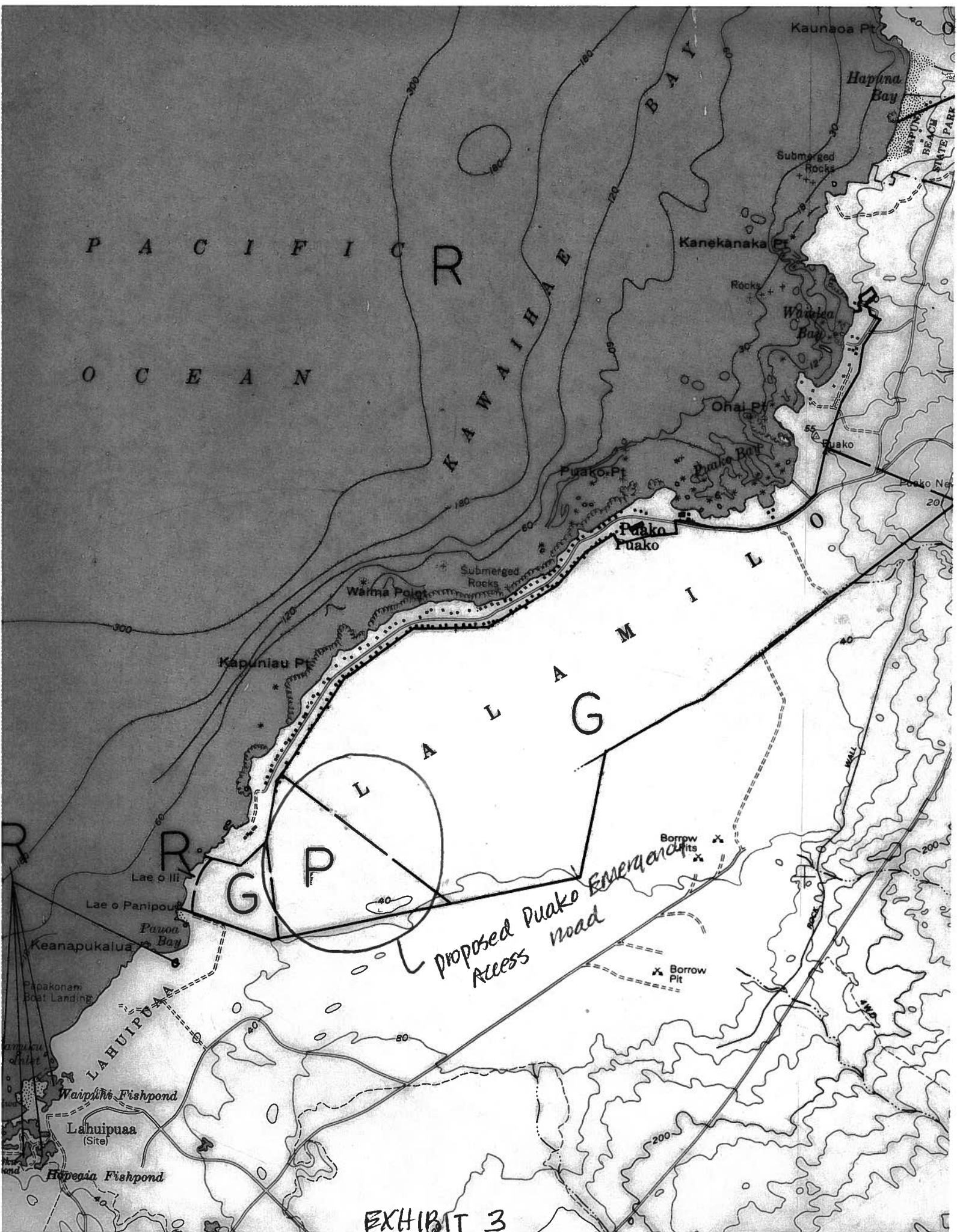


EXHIBIT 3

### Project Site Photos



Top: End of Puakō Beach Road; Middle: Anchialine pool off road; Bottom: Asphalt Trail



# Puako

COMMUNITY ASSOCIATION



RECEIVED  
OFFICE OF CONSERVATION  
AND COASTAL LANDS

2008 SEP -5 A 8: 36

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

9 August 2008

Dear Mayor Kim,

Thank you for your attendance and help in the meeting on Thursday August 7<sup>th</sup> at Civil Defense. The Puako Community Association appreciates your concern with our effort to build an emergency escape route at the end of Puako Beach Drive.

As was discussed in the meeting we would like to ask the County to obtain the land disposition for the parcels involved (TMK:3-6-9-06:51 por. & TMK:3-6-9-01:17 por.) and then grant us the right of entry to construct the road itself. The PCA would complete the permitting process and fund the construction. The County would maintain the road, keeping the easement and control over the road itself. The road would be used for emergency use only.

We've sent our surveys and engineering drawings to Quince Mento of Civil Defense. It's my understanding that he will review these documents with DPW.

Our articles of incorporation have been sent to Craig Masuda.

If I can be of any assistance in moving this project forward please contact me.

Mahalo,

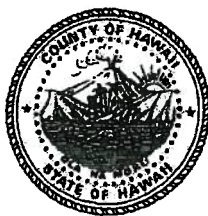
George B. Fry III  
137 Puako Beach Dr  
Kamuela, HI 96743-9710  
fryiii@hawaii.rr.com  
home 808-880-9211  
cell 808-756-3877

cc: Quince Mento, Craig Masuda

**Puako Community Association  
P.O. Box 44345  
Kawaihae, HI 96743**

EXHIBIT 4

Harry Kim  
Mayor



## County of Hawai'i

891 Ululani Street • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553  
KONA: 75-5706 Kuakini Highway, Suite 103 • Kailua-Kona, Hawai'i 96740  
(808) 329-5226 • Fax (808) 326-5663

RECEIVED  
DICK KASSY  
OFFICE OF CONSERVATION  
AND COASTAL LANDS  
Managing Director

Barbara Kossow  
2008 SEP 2 10 40  
Deputy Managing Director

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

August 18, 2008

Kevin Moore, District Land Agent  
Department of Land and Natural Resources  
Land Division  
P.O. Box 936  
Hilo, Hawai'i 96721-0936

Subject: Emergency Escape Road, Puako, South Kohala, Hawai'i  
TMKs: 3rd/ 6-9-06: portion of 51 and 3rd/ 6-9-001: portion of 17

Dear Mr. Moore:

The County of Hawai'i would like to request your assistance in the establishment of a emergency escape road over two parcels of State owned land in Puako, South Kohala, Hawai'i. One parcel is unencumbered while the other is currently under lease to Mauna Lani Resort. The County of Hawai'i Civil Defense Agency has been working with the Puako Community Association in an effort to establish an emergency escape road for the last several years.

The Puako Community Association has taken the initiative in obtaining the necessary permits and approvals and will be funding the construction of the emergency escape road. A Conservation District Use Application was accepted by the Department of Conservation and Coastal Lands on May 19, 2008, a Special Management Area permit was granted by the County of Hawai'i, Planning Department on July 24, 2008 and a Final Environmental Assessment was completed and a Finding of No Significant Impact (FONSI) was published in the OEQC Notice on August 8, 2008.

Upon completion of construction, the County of Hawai'i will be accepting jurisdiction over the road as an emergency escape route to be used only in event of emergencies and the need to evacuate the Puako area. A recent fire in the brush and kiawe forest adjacent to the Puako community has emphasized the urgency and need for such an emergency escape route. The Mauna Lani Resort has agreed to the establishment of such an emergency escape route through the State owned parcels and the private roads of their resort.

The proposed emergency escape road is detailed in the Environmental Assessment and CDUA permit application that will be presented to the Board of Land and Natural Resources in the near future. Upon approval of the CDUA, I would appreciate your effort in preparing the

August 18, 2008  
Kevin Moore, District Land Agent  
Page 2

appropriate submittal to the Board of Land and Natural Resources for a Governor's Executive Order, setting aside an easement through the subject State owned parcels for emergency escape road purposes.

Should you have any questions, please feel free to contact Harry Yada, Property Manager with our Department of Finance, Property Management Division at 961-8009.

Aloha,



Harry Kim  
✓ Mayor

cc: Harry Yada, Property Management Division  
Quince Mento, Civil Defense  
Craig Masuda, Corporation Counsel